

Appl. No. 10/709,505
Amdt. dated August 31, 2005
Reply to Office action of

REMARKS/ARGUMENTS

1. Election/Restriction

5 Restriction to one of the following inventions is required under 35 U.S.C.121:

- 10 I. Claims 1-11, drawn to a method, classified in class 438, subclass 201.
- II. Claims 12-20, drawn to a device, classified in class 257, subclass 315.

15 The inventions are distinct, each from the other because of the following reasons:

20 25 Inventions II and I are related as product made and process of making. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP §806.05(f)). In the instant case unpatentability of the group II invention would not necessarily imply unpatentability of the group I invention, since the device of the group II invention could be made by the process materially different from those of the group I invention. For example, in claim 8, the nitride layer may be formed by PECVD process instead of RTN process.

Because these inventions are distinct for the reasons given above

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and have acquired a separate status in the art as shown by their different classification, the fields of search are not coextensive and separate examination would be required, restriction for examination purposes as indicated is proper.

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Response:

10 Applicants amend the claims in the above AMENDMENT portion. The device claims 11-20 corresponding to invention II are elected as the subject matter to be examined in the present application. The method claims 10-16 are not elected and therefore canceled. Consideration of claims 11-20 is hereby requested.

2. Inventorship

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20 Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Response:

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Inventors of the elected invention are not changed.

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Sincerely yours,

Winston Hsu

Date: August 31, 2005

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